

Message Text

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ACTION L-03

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FOR L/ARA FROM RUBIN

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TAGS: PFOR IAJC OAS

SUBJ: INTER-AMERICAN JURIDICAL COMMITTEE

1. INTER-AMERICAN JURIDICAL COMMITTEE HAS CONTINUED THIS WEEK RATHER DESULTORY PACE CONSIDERING MULTINATIONALS. DISCUSSION HAS BEEN BASED ON "DICTAMEN" BEING CURRENTLY TURNED OUT BY CHAIRMAN IN SERIAL FORM. IT IS LENGTHY AND QUITE OBJECTIVE. I HAVE SUGGESTED THAT IT SOMEWHAT EXAGGERATES THE THREAT TO SOVEREIGNTY POSED BY MULTINATIONAL ENTERPRISE AND THAT GOVERNMENTS ARE QUITE CAPABLE HANDLING PROBLEMS WHEN THEY ARISE. YESTERDAY AND TODAY COMMITTEE WILL DISCUSS DRAFT "RECOMMENDATIONS" WHICH WERE LARGELY DRAFTED BY ME TO TAKE COMMITTEE OFF PATH OF POSSIBLE RECOMMENDATION OF A "CONVENTION" AS ADVOCATED BY RUIZ ELDREDGE. RECOMMENDATIONS ARE PRECEDED BY INTRODUCTION MENTIONING WORK OF COMMITTEE, AND SUGGESTING THAT NON-OBLIGATORY NORMS TO BE INCLUDED IN CODE OF CONDUCT.

2. A) RECOMMENDATION START WITH STATEMENT THAT TNCS, IN ACCORDANCE WITH ESTABLISHED STANDARDS OF INTERNATIONAL LAW, SHOULD ABSTAIN FROM INTERFERENCE IN SOVEREIGNTY AND FROM EITHER GIVING OR COMPLYING WITH DEMANDS FOR BRIBES. COMMITTEE SEEMS SURPRISINGLY LIMITED OFFICIAL USE

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WILLING ACCEPT INTERNATIONAL LAW STANDARD, AT LEAST IT HAS

OCCASIONED NO ADVERSE COMMENT TO DATE.

B) SECOND RECOMMENDATION DEALS WITH TNCS MAKING POSITIVE CONTRIBUTION TO ECONOMIES OF HOST, IN ACCORDANCE WITH APPLICABLE SOCIAL OR ECONOMIC POLICY. (THIS IS OPEN TO INTERPRETATION THAT HOME AS WELL AS HOST POLICY IS TO BE CONSIDERED; AGAIN, COMMITTEE HAS NOT COMMENTED THIS ASPECT). THE NORM THEN GOES ON TO SUGGEST THAT TNCS SHOULD TAKE INTO ACCOUNT EFFECT ACTIVITIES OF TNCS ON FULL RANGE OF ECONOMIC AND SOCIAL DEVELOPMENT AND POSSIBILITY MAXIMIZING EMPLOYMENT OF NATIONALS.

C) THIRD NORM SUGGESTS INCREASE FLOW OF TECHNOLOGY, THAT TNCS, TAKING EXPRESSED NEEDS INTO ACCOUNT, SHOULD COOPERATE WHEN REQUESTED WITH HOST COUNTRIES IN DECIDING WHAT TECHNOLOGY IS APPROPRIATE, TRY TO MAKE AVAILABLE BENEFITS OF ENTERPRISE-WIDE R AND D, TRY TO "EXTENT FEASIBLE" TRAINING AND R AND D IN HOSTS AND COOPERATE IN SUCH INTERNATIONAL ARRANGEMENTS AS MAY BE ESTABLISHED (AS FOR EXAMPLE CENTER PROPOSED IN KISSINGER SEPT 1 SPEECH AT UN). DISCUSSION OF THIS NORM EMPHASIZES THE DIFFICULTIES OF DECIDING WHAT IS APPROPRIATE, PROBLEMS ARISING FROM BALANCE OF PAYMENTS CONSIDERATIONS, ETC.

D) FOURTH NORM IS CATCH-ALL SUGGESTING TNCS PURSUE FAIR AND EQUITABLE BUSINESS PRACTICE, ABSTAIN FROM "UNFAIR" RESTRICTIVE BUSINESS PRACTICES, TAKE COGNIZANCE INTEREST OF HOST IN REGARD INTRAGROUP PRICING, TAKE COGNIZANCE HOST CONSIDERATIONS RE CONTROL OF CREDIT AND BALANCE PAYMENTS, FAIRLY ALLOCATE COSTS SO AS CORRECTLY REFLECT EARNINGS OR LOSSES IN HOST COUNTRIES, COMPLY WITH LABOR LAWS, CONSULT SO AS TO MINIMIZE IMPACTS IF TRANSFER OF PRODUCTION UNITS BECOMES NECESSARY, AND MAKE INFORMATION AVAILABLE "RELEVANT TO THE LEGITIMATE CONCERNS OF HOST COUNTRIES..HAVING DUE REGARD TO LEGITIMATE REQUIREMENTS OF BUSINESS CONFIDENTIALITY".

3. NONE OF THE ABOVE IN MY VIEW CAUSES DIFFICULTY AND MUCH IS HIGHLY DESIRABLE, AS FOR EXAMPLE EXPLICIT STATEMENT RELEVANCE OF INTERNATIONAL LAW, RECOGNITION LEGITIMACY BUSINESS CONFIDENTIALITY, ETC. REMAINS TO BE SEEN WHAT WILL HAPPEN IN FURTHER DISCUSSIONS.

4. COMMITTEE SEEMS LIKELY ALSO RECOMMEND SOME SORT OF INTER-AMERICAN INFORMATION CENTER TO COOPERATE WITH UN CENTER. I HAVE SUGGESTED IN THIS CONNECTION, WITH SO FAR NO OBJECTION, THAT LIMITED OFFICIAL USE

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SUCH CENTER MIGHT BE A FORUM FOR FACT-FINDING OF SORT SUGGESTED BY SECRETARY AT TLATELOLCO. AGAIN WHAT WILL HAPPEN THIS POINT REMAINS TO BE SEEN.

5. NEXT SESSION OF COMMITTEE SET FOR JULY 12, WITH INTERNATIONAL LAW COURSE TO BEGIN JULY 19.

6. I DEPART CLOSE BUSINESS JAN 30. THREE MEMBERS NOT YET HERE.

OTHERS DEPARTING EARLY NEXT WEEK.
DEXTER

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